

**AZDEQ Water Quality Division (WQD) SFY19 EOY Assessment
September 2019 DRAFT**

The following summary reviews AZDEQ's performance for State Fiscal Year 2019 (SFY19). The evaluation is based on commitments in grant workplans, reports/submittals and other communications during ongoing program conference calls.

A. Administration

Federal Funding

AZDEQ Water Quality Division (WQD), hereafter "AZDEQ", receives approximately \$6.1 million in federal funds annually:

Performance Partnership Grant (PPG)

| | |
|---|-------------|
| Clean Water Act (CWA) 106: | \$1,863,000 |
| Public Water System Supervision (PWSS): | \$1,412,000 |
| Non-point Source (NPS): | \$1,304,500 |

Individual Grants

| | |
|-----------------|-------------|
| NPS Projects: | \$1,304,500 |
| CWA 604b: | \$ 100,000 |
| CWA Monitoring: | \$ 164,485 |

(includes CWA Monitoring Initiative and NRSA 2018 carryover funds)

State Revolving Funds

In AZ, the Water Infrastructure Finance Authority (WIFA) is the EPA grant recipient for the State Revolving Funds. In FY19, WIFA was awarded \$19.8 million in their Drinking Water State Revolving Fund (DWSRF) program and \$10.7 in their Clean Water State Revolving Fund (CWSRF) program. WIFA transfer to AZDEQ approximately \$4.2 million in DWSRF funds to support PWSS-related activities.

Revenue

Direct water-related federal funds represent 25% of AZDEQ's operating budget. AZDEQ relies on other revenues such as monies appropriated by the legislature, fees received from: certified operators for the issuance and renewal of their operator certifications, fees received from technical reviews of permit applications, annual permit fees, review of facilities (DW & WW), as well as, drywall registration fees, to support most of their environmental programs.

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Workplan and Grants

Excluding SRF, the bulk of federal funding is awarded annually through a multi-media Performance Partnership Grant (PPG) [Land, Air and Water]. This report represents an assessment of the first workplan year of the multi-media PPG and EPA Region 9 Water funding contribution includes: Clean Water Act (CWA) Section 106, Public Water System Supervision (PWSS) and NonPoint Source (NPS). Prior to the multi-media PPG, EPA Region 9 Water

Division managed its own PPG with AZDEQ. AZDEQ also receives a separate monitoring grant and NPS projects grant.

For each state fiscal year (July 1- June 30), AZDEQ Water Quality Division provides an integrated workplan within the greater PPG workplan covering all activities and commitments for federally and non-federally funded tasks. The draft workplan is reviewed by EPA Region 9 program leads and managers and followed by discussion/negotiations/meetings with AZDEQ.

Previous year activities and commitments are considered to determine technical capacity and program successes and priorities. Priority setting amongst core program activities is often the focus of discussions as well as collaboration across programs. The PPG also includes general and program-specific grant conditions, all of which AZDEQ met in SFY19.

EPA Oversight: Integrated PPG Workplan

The Integrated PPG Workplan provides task outcomes and outputs linked to EPA Goals and AZDEQ Value Streams. The workplan becomes a reporting tool when AZDEQ reports progress on each task every 6-months to EPA. Additionally, EPA program leads hold regular calls with AZDEQ program counterparts as well as official midyear and end-of-year reviews. In addition, separate accountability methods are used to assess progress, e.g. monthly ICIS reports on permit issuance, NPS Annual Report).

There are 7 WTR related Value Streams in the Integrated PPG workplan, not all receive federal PPG funding:

- 4S00: Water Quality Division
- 4S01: Groundwater Protection
- 4S02: Surface Water Protection
- 4S03: Surface Water Quality Improvement Planning
- 4S04: Safe Drinking Water
- 4S05: Water Reuse
- 1S06: Legislative Affairs

While the Integrated PPG Workplan provides a comprehensive look at the work being performed by AZDEQ, EPA Region 9 Water Division finds it to be difficult to review since PPG funded activities are not specifically identified or flagged. This limits our ability to accurately provide proper grant oversight and feedback.

EPA and AZDEQ's partnership is formalized in the Performance Partnership Agreement, or PPA, which was revised and renewed on September 26, 2019. The PPA is an agreement describing our relationships and joint efforts to protect human health and the environment. This supplements MOAs associated with program approval and delegation.

Staffing

The AZDEQ WQD has approximately 110 staff and is constantly recruiting to fill priority vacancies. EPA funded, as well as grant matching, staffing is approximately 61 FTE.

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Rule Making

All agencies in Arizona have been bound by a Governor's rules moratorium since 2009. The Governor's Regulatory Review Council may grant an exception if the regulatory change lessens or eases a regulatory burden. Although this additional requirement creates delays in the rulemaking process, AZDEQ has been successful in obtaining exceptions to the moratorium.

B. Clean Water Act

Water Quality Standards (Integrated PPG: Value Stream 4S03)

AZDEQ addresses the federal Clean Water Act § 303(c) requirements as identified through the act, regulation, case law, and guidance. Primary among these is water quality standards creation, review, and adoption, and the Triennial Review of Water Quality Standards (WQS). This program is funded by Clean Water Act 106 grant and state funds as part of the PPG.

AZDEQ has been able to move forward with their regular Triennial Review and WQS despite several obstacles, but this was done at a high resource cost. EPA encourages AZDEQ to reconfigure its approach to CWA 303(c) actions to better leverage the structures of the Act to the benefit of the department's resources and to better avail itself of EPA technical support.

Program performance

- Highlights:
 - AZDEQ continues scientifically rigorous efforts to craft numeric nutrient criteria for arid southwest rivers and lakes through EPA's Nutrient Scientific Technical Exchange Partnership & Support (N-STEPS)
- Challenges:
 - Early engagement of document review (Triennial Review).
 - Inconsistencies with correct versions of documents to review (Triennial Review).
 - Loss of staff affecting submission of deliverables (Draft Lake Criteria).
 - Due dates for deliverables have been pushed out (Triennial Review and WQS updates).

Fiscal Analysis PPG

Insufficient information is provided at the program level in the PPG reports to determine whether potential ULO, drawdowns, or de-obligated or redirected funds occur.

Solutions: Agreements or Correct Actions

- Triennial Review and WQS actions should be separated going forward, bundling of WQS should be avoided when possible.

- Early engagement drafts of WQS, technical support documents, and Triennial Reviews should be provided as complete and cogent drafts. Engagement timelines should reflect complexity of the item and seasonal workload (e.g. midyear, end of year, sampling season) and should be agreed upon.
- Sufficiently complete WQS drafts and technical supporting documents should be provided to enable EPA to perform its processes in an effective manner. These timelines should be determined and agreed to based on complexity of WQS and the seasonal workflow.

SFY20 Priorities

- AZDEQ anticipates submitting a WQS and Triennial Review package to EPA in September 2019 – a culmination of 2 years of preparation.

Ambient & 106 Monitoring (Integrated PPG: Value Stream 4S03 & CWA 106 Monitoring Initiative)

The responsible units address the targeted and ambient monitoring requirements to support the federal Clean Water Act § 303(d) and 305(b) reports, known collectively as the Integrated Reports. The CWA § 303(d) report identifies Impaired Waters requiring a Total Maximum Daily Load (TMDL), based on requirements set forth in the state's EPA-approved Water Quality standards an assessment is made for each waterbody based on water quality monitoring data. Once a waterbody is identified as being impaired another unit within AZDEQ works to draft. The CWA § 305(b) report provides water quality attainment information on all other waters within in the state and the water environment. These reports are now to be submitted to EPA through the ATTAINS web-based system. These efforts are funded by the PPG, CWA 106 Monitoring Initiative grant, and state funds.

The CWA 106 Monitoring Initiative grant provides funding to states to support probabilistic surveys, monitoring program design, special monitoring initiatives that are not in direct support of the 303(d) report, and the National Aquatic Resource Surveys. Guidance for the CWA 106 grant within the PPG and the CWA 106 Monitoring Initiative instructions recognize that workplan items will likely interact and overlap.

AZDEQ is overall working diligently to meet its Clean Water Act responsibilities in the critical areas of ambient and targeted water quality monitoring and assessment. EPA does have concerns about sustainability of some approaches given past performance of infrastructure and resources that are being leveraged.

Program performance

- Highlights:
 - AZDEQ continues to provide a strong voice for the Arid Southwest states in the National Aquatic Resource Surveys.

- The anticipated 2020 Integrated Report will be the first in the nation to leverage R software, the EPA's existing Water Quality Data electronic infrastructure, and ATTAINS to automate most processes of the assessment.
- AZDEQ worked closely with EPA OW to address Water Quality Data Portal (WQX) upload issues.
- Challenges:
 - This is the second year to drop monitoring laid out in the Sample Analysis Plan (SAP) to support the required CWA 305(b) portion of the Integrated Report. As an arid southwest state with WQS for perennial/intermittent and ephemeral waters, AZDEQ should be monitoring in a way to provide a report on the general condition of all the EPA-approved designated uses. Presently the SAP focuses on a goal of creating a comprehensive census of the perennial waters within the state's 5-year assessment window; this approach precludes intermittent waters that are protected under the same WQS as perennial waters. Likewise, it precludes ephemeral waters from monitoring.
 - AZDEQ's SFY19 SAP focuses on monitoring with the express goal of de-listing waters from the list of impaired waters requiring a TMDL. This is the second SAP to include this goal, which may conflict with the nature, intent, and requirements of the CWA § 106 grant guidance, CWA § 303(c) and 305(b), regulations, case law, and guidance.
 - A potential early engagement issue has recently come to light regarding EPA and AZDEQ's timelines to discuss the pending 2020 Integrated Report submission. AZDEQ allotted EPA a week to review what is an unusually large report, this is an inappropriately short amount of time. EPA is sensitive to the lengthy and sometimes cumbersome state processes AZDEQ is subject to in its efforts to meet CWA publication, comment, and submission requirements.

Fiscal Analysis PPG and 106 MI

Not applicable or available at this time.

Solutions: Agreements or Correct Actions

- To better provide monitoring in support of the Integrated Report requirements AZDEQ should incorporate into the SAP, as a top tier priority alongside targeted monitoring, a design that addresses all waterbody types and designated uses within the EPA-approved WQS of Arizona. This can be done with a probabilistic or many other styles of approaches. This should be incorporated into the SFY20 SAP as well as be reflected in the pending Comprehensive Monitoring Strategy.
- While EPA agrees with AZDEQ that there are outstanding waters on its list of impaired waters requiring a TMDL, some exceeding 15 years; EPA urges AZDEQ to be cautious with a sampling approach that is aimed at de-listing waters instead of preparing these waterbodies for TMDLs or TMDL-alternatives such as the "5-alt" discussed in the TMDL EOY assessment.

- EPA Region 9 is encouraged by AZDEQ's work with the EPA OW to better flow data to WQX, however we acknowledge that this a relatively recent partnership and there is an ongoing need for the region to receive reports on data flow.
- To address the timing issues EPA Region 9 is requesting that AZDEQ move the intended submission date EPA from April 1, 2020 to May 1, 2020 in the workplan to accommodate at least a month of EPA review time for the draft. Presently, AZDEQ is forecast to provide the draft mid-November; this will overlap with holidays and national meetings – making the month review time even more necessary.

SFY20 Priorities

- Monthly WQX data flow updates and tracker: To support the ability of AZDEQ to continue its automated assessment, EPA and AZDEQ need to remain vigilant that issues are not arising
- The CMS should incorporate a long term view of how to support the whole integrated report requirements – both 303(d) and 305(b) related.
- The SFY20 SAP should include a top priority monitoring scheme to monitor all designated uses and waterbody types within the state's EPA-approved WQS.
- AZDEQ should proceed cautiously with monitoring designs, objectives, and plans that appear to prioritize an express goal of avoiding a TMDL or TMDL like intervention through additional monitoring.

Total Maximum Daily Load Development (Integrated PPG: Value Stream 4S03)

The responsible unit covers the federal Clean Water Act § 303(d) requirements as identified through the act, regulation, case law, and guidance. Primary among these is sampling, analyzing and synthesizing data to create TMDLs to address impaired waters in support of the AZPDES/NPDES program. This effort is funded wholly by the PPG and state funds.

EPA has concerns about AZDEQ's ability to meet program requirements and workplan goals that have been identified by AZDEQ. Several of these items have persisted over several state fiscal years, without being completed. AZDEQ should focus on completing its current workplan items and identifying more readily achievable goals for future workplans. Some questions are raised about the application of funds.

Program performance

- Highlights: The Santa Cruz River TMDL for *escherichia coli* will soon be submitted to EPA for review and decision.
- Challenges:
 - Delinquent TMDL submittals: Santa Cruz River and San Pedro.
 - Stalled or canceled TMDLs: The delay of Pinto Creek TMDL to reflect the approach taken in the draft Queen Creek TMDL raises questions about how the drafts were able to diverge over the several years both have been in progress. Similarly, it is concerning that the completion of the Queen Creek TMDL has

been stalled in response to a request for refined modeling which may not yield significantly different results; this is workplan item that has persisted for more than four state fiscal years. The restructuring and re-focusing of the San Pedro TMDL's geographic scope to a smaller area, given that it was identified as a vision priority TMDL, raises concerns about the level of analysis AZDEQ staff are able to provide prior to moving forward on large and resource intensive projects. This issue is repeated in WQS as well, where unrealistically brief timelines crafted by AZDEQ have handicapped projects.

- TMDL Alternatives and TMDL like interventions: AZDEQ's "watershed based approach" initiative centered on interventions to improve water quality in the Verde and Oak Creek, San Pedro River watersheds and the Bradshaw mountains. This work was conducted by the 4S03 value stream and will hopefully have an impact on the findings of the future integrated reports. Documentation of these efforts has been requested, but only recently received. As these are TMDL like interventions, they should be crafted as TMDL alternatives "5-alts" – this note and guidance documentation has been provided to AZDEQ previously.

Fiscal Analysis PPG

- Insufficient information is provided at the program level in the PPG reports to determine whether potential ULO, drawdowns, or de-obligated or redirected funds occur.
- AZDEQ has not provided information on what the funds allocated for the Queen Creek TMDL have been applied to in lieu of this project's completion.

Solutions: Agreements or Correct Actions

- EPA suggests that AZDEQ can address the efforts and impacts it has completed in the TMDL like interventions by providing summaries that meet the "5-alt" guidance or work with the Non-Point Source program.
- EPA suggests that AZDEQ focus on finalizing the San Pedro River/Babocomari River TMDL, the Pinto Creek TMDL, and the Queen Creek TMDL. EPA and AZDEQ should work closely in identifying and agreeing to new future workplan items to better reflect the realities AZDEQ is facing and the application of funds.

SFY20 Priorities

- Completion of outstanding TMDLs: Babocomari, Pinto Creek, Queen Creek.
- Support for and capacity building for AZDEQ TMDL unit.

AZPDES Permitting (Integrated PPG: Value Stream 4S02)

AZDEQ's AZPDES Permitting Section implements section 402 of the CWA. The current universe of AZPDES permits including both individual and general is 151 permits. In SFY19, AZDEQ continued to issue good quality permits in a timely manner, meeting their PPG workplan performance target of 90% current. At mid-year, AZDEQ was below this target, but

working closely with EPA, AZDEQ was able to successfully issue several backlogged individual permits and also the Multi-Sector General Permit (MSGP) which pushed the cumulative permits current for the year to 94%.

Program performance

- **Highlights:**
 - Reissuance of the MSGP is a significant highlight, as it was a high priority permit and subject to a grant condition. Another factor in improving the percentage current was consolidation and elimination of duplication in the universe of permits counted. Several individual and general permits which were no longer active were still being counted, as well as some that were being double counted. The permit tracking and compliance teams of both AZDEQ and EPA worked together quickly and diligently to resolve this and improve the accuracy of permits tracking.
 - AZDEQ's total % current is 94% with a high of 100% current for both major and minor individual permits with 58/58 major individual permits and 76/76 minor individual permits current.

| | #current/total (using 6-month cushion) | % current (using 6-month cushion) |
|-----------------|---|--------------------------------------|
| Majors | 58/58 | 100% |
| Minors | 76/76 | 100% |
| Phase I MS4s | 1/8 | 12.5% |
| General Permits | 4/9 | 44% |
| Total | 142/151 | 94% |

- Most of the backlog is due to the long-expired Phase I MS4 individual permits, 7 out of 8 of which are expired, and the general permits, of which 5 out of 9 are expired.
- Starting after the SFY19 Mid-year meeting, AZDEQ and EPA permitting leads initiated regular check-in calls, and this regular communication has been very helpful in getting permit issues resolved as expeditiously as possible to ensure maintenance and reduction of the backlog.
- **Challenges:**
 - Phase I MS4 permits are a major source of backlog with 7 out of 8 backlogged. AZDEQ has scheduled to meet with customers about issuing a general permit to cover these individual permits in one permit but so far there has been no actual schedule to issue the GP. Issuing this General permit should be a priority in the upcoming SFY20
 - Re-issuance of the Construction General Permit. After public notice of the 2019 draft permit, AZDEQ received feedback that many of their customers prefer the 2013

permit. AZDEQ held workshops with stakeholders and recently shared a pre-public notice draft with EPA for review. AZDEQ now is in the process of re-public noticing the CGP with the necessary updates and targeted issuance by end of the calendar year. Issuance of the CGP should be a priority for SFY20.

- For some of the other General Permits, AZDEQ has decided to either convert them to individual permits by terminating the administratively extended GPs or issuing individual permits when filers come in for renewal, whichever is more efficient for GPS with low number of filers such as the Infrequent Discharger, and Minor WWTP GPS.
- For other GPs such as the Pesticide GP and Biosolids GP, AZDEQ has not been able to proceed towards re-issuance due to a variety of factors, including staffing resources. AZDEQ has increased net permitting staff, but the newly hired permit writers are focused on the individual permit re-issuance, as well as priority GPs, namely the MSGP, the CGP, and the phase I MS4 GP. New permitting staff have attended several permit writer trainings and plan to attend several more in the SFY20, to enhance permitting skills.
- AZDEQ shared pre-public notice draft of the Biosolids GP and EPA provided input and comments in May 2019 and AZDEQ intends to public notice it soon again pending staff resources which are focused on renewal of the CGP and Phase I MS4 GP.
- Lastly, one of the key deliverables that AZDEQ was able to meet was the issuance of the renewed MSGP permit in May 2019. However, there is some concern about when and how it will be implemented due to several factors including uncertainty over the Waters of the U.S. rule and questions about the electronic reporting system for the MSGP. The concern regarding the Waters of the U.S. rule, though focused on the MSGP, is also a concern for AZDEQ as related to its overall AZPDES permitting activities.

Nonpoint Source (NPS) Program and Project (CWA 319) Management (Integrated PPG: Value Stream 4S03 & NPS individual grant)

The Watersheds Protection Unit (WPU) in the Surface Water Section oversees the majority of the Nonpoint Source Program (NPS), such as managing the NPS projects funds, watershed outreach, and developing watershed plans and NPS TMDL's. The WPU has eleven staff and one supervisor. Other sections of AZDEQ's Water Division utilize portions of the CWA 319 Program funds to fund staff for NPS-related work. The WPU responsibilities include NPS program implementation and project oversight. Program implementation is based on the State's NPS Management Plan (SMP), which establishes goals, objectives, activities, and milestones. NPS program accomplishments are detailed in an Annual Nonpoint Source Program Report and an end-of-year Performance Partnership workplan report. Project oversight includes the solicitation for project proposals, proposal review and project selection, awarding projects, and oversight of projects that improve water quality. In FY 19, EPA provided \$2,609,000 in NPS funds. Fifty percent of the NPS funds go into the PPG to fund staff working on NPS impairment

assessing, planning, and reporting; the remaining 50% goes into a project grant for implementing projects to reduce NPS pollution.

Program performance:

Generally, AZDEQ's performance is good as stated in our July 23, 2019 Satisfactory Progress Determination. However, we have concerns in 3 areas: 1) NPS 5-year Plan, 2) NPS Projects Grant funds, and 3) NPS Annual Report.

- NPS 5-year plan Update not completed: Arizona was unable to update their NPS State Management Plan (SMP) this past State Fiscal Year due, in part, to staff departures. Thus, AZDEQ has requested an extension of their current 5-year Management Plan to December 31, 2019, while they complete their delayed Plan update. EPA has approved the extension request because the current Plan outlines specific goals and objectives and key milestones that are still relevant to the State NPS Program through the extended deadline. In addition, AZDEQ has committed to updating the AZ NPS Workplan components (includes CWA 319 grant funds) to identify specific tasks to make progress toward these milestones. The Workplan will also include milestones for completing the update to their Management Plan. In the Satisfactory Progress Determination (7/23/19), EPA advised AZDEQ that failure to meet the SMP revision schedule and update the goals and milestones of the SMP for the next 5 years may impact future satisfactory performance reviews and, potentially, grant funding.
 - An outline was received on July 31, 2019. EPA and AZDEQ met on August 12, 2019, to discuss the outline, at which time EPA provided comments to AZDEQ on the outline.
 - EPA expects to receive a draft SMP by 10/1/19 for review and a Final Draft SMP is due to EPA on 10/31/2019. The goal is EPA approval of the final updated plan by December 31, 2019.
 - The State understands that NPS Project funds can only be utilized for work identified in the NPS Management Plan.
 - The uncertainty of the status on the proposed definition change of Waters of the United States (WOTUS) is causing AZDEQ to hesitate on prioritizing waterbodies in Arizona will be eligible for project funds.
 - EPA suggests that AZDEQ move forward on prioritizing waterbodies, the NPS Plan can be revised if WOTUS affects state priorities.
- Nonpoint Source Project Grant funds not obligated within a year of grant award: AZDEQ did not obligate NPS grant funds within one year of EPA awarding the grant (by 9/30/18). States are required to obligate all 319(h) funds in the previous year's award within one year of the award, per current 319 grant guidelines. EPA is unclear of when AZDEQ obligated all SFY 2018 funds and request that AZDEQ provides the date funds were obligated. The SFY2019 grant funds are close to being obligated at the time of writing this report (within or close to the 9/30/19 deadline).

- Currently, 55% of the NPS project funds (\$7,687,200) awarded to AZDEQ are showing as unobligated in EPA's database. EPA understands that our database shows State drawdown of funds but does not reflect when the State has obligated its funds. EPA will work with the Watersheds Protection Unit on tracking and reporting on funds/projects more accurately at the State level.
- AZDEQ has expressed concerns that funding for upcoming projects might be affected by the definition change of Waters of the United States (WOTUS), as many waterbodies in Arizona may be reclassified. Based upon conversations with HQs, Region 9 believes that funding levels will not change.
- **NPS Annual Report Delayed:** The submittal of the NPS Annual Report has been pushed back to February 2020. Normally, AZDEQ commits to submitting the NPS Annual Report by September each year. However, this upcoming NPS Annual Report will be delayed due to prioritizing completing the NPS 5-Year Plan, and that the Report is the final report on the 2014-2019 5-year NPS Management Plan.
 - A draft NPS Annual report is due February 7, 2020, and final due on March 27, 2020.
- AZDEQ continues to be on schedule for updating EPA's Grants Reporting Tracking System (GRTS), a database that tracks estimated NPS load reductions on BMP's implemented on-the-ground.
 - Here is a snapshot of the past 3 years of AZDEQ estimated load reductions in GRTS:

| | Nitrogen | Phosphorus | Sedimentation-Siltation |
|------|--------------|--------------|-------------------------|
| | LBS/YR | LBS/YR | TONS/YR |
| FY18 | 5,581 | 2,255 | 1,797 |
| FY17 | 4,579 | 2,289 | 6,514 |
| FY16 | 4,328 | 2,063 | 31,526 |

CWA 604(b) and CWA 208 Water Quality Management Planning (individual grant)

EPA Region 9 provides \$100,000 annually to AZDEQ through the CWA 604(b) grant program. CWA 604(b) funds can be used to carry out planning under sections 205(j) and 303(e). If the funds are used for CWA 205(j) projects, Water Quality Management Plans (WQMP's), then 40% of the funds must be passed through to planning organizations. AZDEQ only uses CWA 604(b) funds for WQMP; thus, they must pass through at least 40% of their funds to planning agencies.

In SFY 2018, AZDEQ began implementing a competitive approach to distributing CWA 604(b) funds. In previous years, AZDEQ passed through 40% of the CWA 604(b) funds (of their \$100,000 annual award) to planning agencies, which is required by the law. The remaining funds (60%) went to AZDEQ staff position to administer the program. The pass-through funds were distributed to five Council of Governments (COGs) to update CWA 208 Plans on a rotating basis. In an analysis of funded projects prior to 2018, EPA and AZDEQ found that: the 208 Plan updates lacked innovation in addressing water quality issues, the 208 Plan updates required a significant amount of agency processing time which was an inefficient process, and the Plan formula was outdated. This led to AZDEQ changing its approach to solicit competitive proposals instead of automatic funds distribution to COGs.

In SFY19, COGs raised concerns that they needed direct funding to continue updating their 208 Plans. In response, AZDEQ provided funding to COGs to support Plan updates, as well as, competitively funding local innovative WQM planning. One hundred percent of the CWA 604(b) funds are passed through to planning agencies. EPA believes that the adaptivity of AZDEQ to balance funding needs for COGs and to provide funds for innovative WQMP, is advancing the State's ability to address current and future water quality issues.

Development of Arizona's state 404 assumption process (CWA 404(g)) (Integrated PPG: Value Stream 4S02)

AZDEQ has begun a process to assume administration of the §404 CWA dredge and fill permitting program. Grant funds are being used for program development and to prepare the 404 assumption request package. AZDEQ's workplan for these activities approved in July 2018 anticipated the State submitting the package to EPA in October 2020. EPA and AZDEQ both recognized this as an aggressive schedule given the complexity and challenges related to 404 program assumption. Last June, AZDEQ accelerated the schedule by four months with a plan to submit a package to EPA in June, 2020. On September 23, 2019, the schedule was modified again with AZDEQ now planning to submit an assumption package to EPA in August 2020. AZDEQ expects EPA review and approval by December 2020. Given these challenges, the AZDEQ workplan deliverables focused on facilitating early and substantive coordination with EPA to ensure AZDEQ's assumption request package would be complete and approvable. To date, some workplan deliverables have not been provided, revised work schedules are not routinely provided, and EPA opportunity for review and assistance is less than expected. The acceleration of the schedule to submit the assumption package to EPA contributed to reduced timeframes or elimination of EPA receipt of deliverables and opportunity for review.

Program Performance

AZDEQ has completed stakeholder meetings, produced technical working group reports, engaged senior leadership of state and federal agencies, engaged Arizona tribes, coordinated with the Corps, initiated development of an EPA/AZDEQ MOA and most recently released a major deliverable; a Roadmap for State 404 Program Development. AZDEQ hosted a meeting with EPA staff and provided a detailed review of key program development milestones and the identification of technical/policy issues requiring EPA assistance.

AZDEQ has assembled a staff team who are learning the 404 program as they proceed. Unfortunately, a key attorney on the team recently left AZDEQ. AZDEQ has eliminated or reduced some EPA review/coordination opportunities and not produced some deliverables. In addition, AZDEQ has had challenges providing EPA with revised project timelines to ensure sufficient time for EPA review and comment. AZDEQ has only provided one updated timeline.

On the mid-year action item list, EPA requested continual updates on AZDEQ's development of action item deliverables. EPA also requested a timeline that incorporates EPA's review, comment/coordination on draft documents. An ongoing performance concern is the lack of updates on the state assumption timeline. Timeline changes have resulted in a reduction or elimination of EPA review and coordination on key elements of the state's assumption package.

Workplan commitments concerns

- *Prepare an overall framework of activities with timeline to be undertaken for completing 404 assumption package (comments – Update timeline as needed)*
 - EPA did not receive the timeline until July 2019. There have been significant changes to the timeline, but despite EPA requests no update has been provided.
- *Conduct stakeholder process utilizing facilitated workgroups to engage full range of interests in program development (comments – Workgroup deliverables: draft roadmap and final roadmap)*
 - EPA did not receive the draft roadmap and associated two-week review period. EPA was not notified when the final roadmap was posted to AZDEQ's webpage.
- *Conduct Formal Rulemaking (comments: draft rule, second draft rule and final rule)*
 - AZDEQ has indicated that to accelerate their schedule, EPA will not receive a second draft rule for review/comment (a deliverable). EPA has not received a draft rule outline for review as indicated in AZDEQ's most recent timeline provided to EPA.
- *Reporting:* In the EOY workplan (4S02), AZDEQ inserted *Actual Date Outputs* that are not accurate. In terms of meeting deliverables and ensuring agency coordination, AZDEQ provides *Comments* that don't provide meaningful information on the status of the deliverables.

Fiscal Analysis

Insufficient information is provided at the program level in the PPG reports to determine whether potential ULO, drawdowns, or de-obligated or redirected funds occur.

Solutions: Agreements or Corrective Actions

- Revise workplan to confirm deliverables, including providing us with regular (monthly) schedule updates that communicate in advance key EPA review and comment opportunities.
- Senior management discussions with AZDEQ regarding upcoming 404 program development activities, challenging issues and related needs (schedule for 10/2).
- Continue scheduled bi-weekly EPA/AZDEQ conference calls to facilitate communication and coordination.

Clean Water Act Enforcement and Compliance (Integrated PPG: Value Stream 4S02)

The 2002 National Pollutant Discharge Elimination System (NPDES) Memorandum of Agreement between the EPA and the state of AZDEQ to manage its NPDES programs, including its compliance and enforcement, and pretreatment programs. A 2004 Addendum adds the biosolids program. Arizona is one of only eight states authorized to manage its NPDES biosolids program.

AZDEQ met or exceeded most of its SFY19 workplan commitments. Notable achievements include exceeding the targets for stormwater inspections and increasing the rate of informal enforcement actions issued and closed. AZDEQ missed four inspection/audit targets in its pretreatment program, but will make up the deficit in SFY20.

Program Performance

AZDEQ's CWA Compliance and Enforcement program includes 1) conducting wastewater and stormwater **inspections** of permitted facilities, 2) developing and issuing **compliance and enforcement** actions based on identified violations, managing the delegated 3) **biosolids** and 4) **pretreatment programs**, and 5) managing the associated programmatic **data management and reporting** requirements. Given the scope and complexity of the program, each of the five major workplan task areas is evaluated individually below.

Inspections: EPA's 2014 Compliance Monitoring Strategy (CMS) requires the inspection of majors once every two years (50%) and the inspection of all minors once every five years (20%). AZDEQ set a target of inspecting 50% of the major AZPDES permitted facilities (28 of 57) and 20% of the minor facilities (15 of 75) in SFY19. AZDEQ exceeded both targets by conducting 29 major inspections and 16 minor inspections. Additionally, AZDEQ responded to 63 citizen complaints related to the Clean Water Act (30 stormwater + 33 other), resulting in 34 non-routine inspections (21 were stormwater). The annual CMS goal for sanitary sewer system (SSS) inspections is 5% of the permitted universe or 6 inspections for AZDEQ. AZDEQ completed development of its SSS inspection program by mid-year in SFY18 and then completed two SSS inspections by end of SFY18. AZDEQ conducted four SSS inspections in SFY19 and did not meet its full CMS goal of six SSS inspections.

For SFY19, EPA and AZDEQ agreed to an alternative CMS for stormwater inspections. AZDEQ agreed to inspect 100 industrial facilities and 100 construction sites (Phase 1 and Phase 2). AZDEQ met or exceeded its stormwater inspection targets of 100 industrial and 100 construction (73 Phase 1 and 27 Phase 2) inspections by conducting 118 industrial and 108 construction inspections (73 Phase 1 and 35 Phase 2). Not only did AZDEQ exceed SFY19 target goals, they also exceeded the state fiscal year 2017 (SFY17) and SFY18 inspection numbers for these source categories. The CMS goals for the stormwater programs also include audits of Municipal Separate Storm Sewer Systems (MS4s). AZDEQ met their targets of one MS4 Phase I audit and eight MS4 Phase II audits in SFY19.

Arizona has roughly 100 Concentrated Animal Feeding Operations (CAFOs) statewide covered by Arizona Aquifer Protection Program permits and one CAFO subject to AZPDES permits (requiring inspection once in a five-year cycle). Since the AZPDES permitted facility was

inspected in SFY18, AZDEQ set its target to zero CAFO inspections and conducted zero inspections.

Compliance and Enforcement: EPA continued generating automated Quarterly Noncompliance Reports (QNCR) in SFY19. The QNCR provides detailed NPDES compliance status for major permittees. Major facilities are flagged as being in Significant Noncompliance (SNC) if they have acute or chronic effluent limit violations that exceed EPA's criteria for magnitude and duration. Major facilities may also be flagged as SNC for late submittal of discharge monitoring reports. Flagging SNC violations is an important tool for targeting enforcement to the highest priority violations. State enforcement response to SNC violations is a critical measure that EPA uses in our oversight of State NPDES enforcement programs. AZDEQ worked cooperatively to address the SNC facilities flagged in quarterly letters from EPA and the number of facilities that are in SNC has decreased significantly.

In SFY19, AZDEQ issued three Administrative Orders (AOs), closed five AOs, issued 72 Notices of Opportunity to Correct (NOCs) and Notices of Violation (NOVs) and closed 53 NOCs and NOVs. While AZDEQ's SFY19 formal enforcement compliance is similar to its SFY18/SFY17 formal enforcement compliance (four issued, two closed/six issued, one closed), AZDEQ's SFY19 informal enforcement actions represent a 48% increase in actions issued and a 43% increase in actions closed from SFY18/SFY17 informal compliance actions (48 issued, 36 closed/49 issued, 38 closed). AZDEQ attributes this increase to hiring two new inspectors and a new unit manager, which increased the number of inspections, relevant findings, and increased return to compliance.

Biosolids Program: Biosolids are inspected as part of AZDEQ's overall inspections of publicly owned treatment works (POTWs). AZDEQ exceeded its SFY19 inspection targets for the biosolids program of 11 inspections by inspecting biosolids operations at six major POTWs, four large commercial facilities, and two small land appliers for a total of 12 inspections. AZDEQ exceeded its target of 26 annual report reviews submitted under the biosolids rule by reviewing 150 annual reports. The additional review of minor POTW reports, small land appliers, and California generators contributed to the increase in reviewed reports this year. Detailed biosolids language incorporating requirements in AZDEQ's biosolids program and site management practices continued to be included in SFY19 AZPDES permits and AZ APP permits issued to POTWs. AZDEQ issued three informal enforcement actions for biosolids violations and closed two informal biosolids enforcement actions in SFY19; these are tallied in the **Compliance and Enforcement** discussion on informal enforcement actions. In SFY19, AZDEQ sent EPA a draft of their general biosolids permit for review and will continue its transition to electronic reporting. EPA anticipates that the implementation deadline of the electronic reporting rule (eRule) will be extended to December 31, 2023. In SFY19, AZDEQ investigated several detailed complaints on a single biosolids land applier with sites both in Arizona and California. After consulting with EPA Region 9 on multiple occasions, AZDEQ referred this complex biosolids enforcement case to EPA's national Biosolids Center of Excellence (BCE) in early SFY20 and will continue to provide support as needed throughout SFY20.

Pretreatment Program: AZDEQ is authorized to implement the federal pretreatment regulations. Core regulatory duties are as follows:

- 1) Review all annual reports submitted by POTWs with approved pretreatment programs and provide written feedback when program deficiencies are found.
- 2) Conduct pretreatment compliance audits (at least once every five years for each approved POTW pretreatment program).
- 3) Conduct pretreatment compliance inspections (at least twice every five years for each approved POTW pretreatment program).
- 4) Perform annual inspections of POTWs with significant industrial user (SIU)-oversight-only pretreatment programs (at least once every five years for each program).
- 5) Review and approve pretreatment program submittals and modifications.

Additionally, there is a specific PPG target for AZDEQ to support pretreatment work in the Ambos Nogales border region, as industrial wastewater from Mexico has caused or contributed to NPDES permit violations at the Nogales International Wastewater Treatment Plant (NIWTP). During SFY19, AZDEQ continued enforcement efforts to compel the International Water Boundary Commission to meet the pretreatment requirements in the NIWTP NPDES permit, and continued to work with wastewater representatives in Nogales, Arizona, and Nogales, Sonora, to support implementation of the pretreatment conditions in the NIWTP NPDES permit.

AZDEQ's Pretreatment Coordinator retired in July 2019, and there are no plans right now to backfill the position. However, Leigh Padgitt will act as the main pretreatment program point of contact, with Isaiah Ortiz as the subject matter expert and Kristie Chavero assisting. During SFY19, AZDEQ met some of its pretreatment targets, and is working to complete the remaining targets in SFY20. AZDEQ fell short of its Pretreatment Compliance Audit (PCA) targets (three of four completed), Pretreatment Compliance Inspection (PCI) targets (six of eight completed), and SIU-oversight inspections (zero of one completed). AZDEQ met all pretreatment report review targets (19 of 19 annual reports completed). AZDEQ attributed not meeting all targets to hiring and training new inspectors, and has committed to making up the remaining tasks in SFY20.

In SFY20, EPA looks forward to AZDEQ completing the outstanding SFY19 pretreatment commitments, and continuing progress in pretreatment commensurate with its target numbers.

Data Management and Reporting: AZDEQ successfully met the deadlines for the Phase 1 NPDES eRule implementation for both individual and general permits and the development of a new AZPDES storm water web tool.

Phase 2 of the NPDES eRule is scheduled to be implemented by December 31, 2020, but an extension to December 31, 2023 is highly anticipated. Until the NPDES eRule Phase 2 is extended, AZDEQ will disinvest in further development of its myDEQ system for Phase 2 and invest more in the myDEQ tool for Pretreatment and Biosolids.

As part of EPA's National Compliance Initiative, EPA and AZDEQ will continue monitoring AZDEQ's SNC Rate on a quarterly basis as a recurring agenda item on the monthly PPG CWA enforcement calls.

Fiscal Analysis

The CWA 106 grant funds AZDEQ's CWA enforcement and compliance programs. AZDEQ does not provide a detailed breakdown of the funding allotted to these programs and, therefore, it is not possible to determine whether the drawdowns are commensurate with workplan commitments.

Solutions: Agreements or Corrective Actions

Inspections: AZDEQ has failed to meet the CMS goals for SSS inspections (5% of the permitted universe or six inspections for AZDEQ) each year from SFY16 -SFY19. No inspections were conducted in SFY16 and SFY17, two were conducted in SFY18, and four in SFY19. With the upward trend in SSS inspections, AZDEQ should be able to meet its full CMS commitment in SFY20.

Pretreatment Program: AZDEQ did not meet their SFY19 PCA, PCI, and SIU targets, falling short by one PCA, two PCIs and one SIU-oversight inspection. AZDEQ agreed to make up the deficit for SFY19 as well as meet their SFY20 targets by June 30, 2020. Despite missing these targets, AZDEQ will still meet the 2014 CMS pretreatment compliance monitoring requirements.

Biosolids Program: In discussions which ultimately led to the case referral to EPA's BCE, AZDEQ indicated a lack of expertise on the Biosolids Rule and its subsequent implementation, particularly the inspection and enforcement requirements. EPA's Region 9 Water Division provided general training on the Biosolids Rule on September 4 – 5, 2019. EPA recommends AZDEQ collaborate with EPA's Region 9 Enforcement and Compliance Division to provide additional training on conducting biosolids inspections and determining violations. Additionally, EPA recommends AZDEQ establish a biosolids program subject matter expert, similar to the recently established pretreatment program subject matter expert.

Data Management and Reporting: AZDEQ currently complies with its State Implementation Plan for the Phase 2 NPDES eRule reporting. If the Phase 2 eRule implementation deadline is extended, EPA would like updates from AZDEQ, annually starting in January 2021 and then quarterly starting in January 2023. In order to meet the December 31, 2023 deadline, the updates should identify critical milestones and provide the status of the tool development for Phase 2 electronic reporting.

SFY20 Priorities

AZDEQ will continue to prioritize meeting their workplan commitments for SFY20. Additionally, AZDEQ will address multiple State Review Framework (SRF) Round 4 recommendations, which have several interim SFY20 milestones before the final AZDEQ critical milestone of June 30, 2020. The multiple SRF Round 4 recommendations can be broadly categorized as improving accuracy in data management, providing comprehensive NPDES inspector training for all the authorized programs, and revising the AZDEQ Compliance Handbook.

C. Safe Drinking Water Act

Public Water System Supervision Program (Integrated PPG: Value Stream 4S04)

AZDEQ regulates 1,526 public water systems serving 6.5 million residents. These water systems are divided into 748 community water systems (CWS), 207 non-transient non-community water systems (NTNC) and 571 transient (TNC) water systems. AZDEQ recently completed an evaluation of the Maricopa county delegated program and will work to address any issues identified with their delegated county program.

AZDEQ has met all workplan commitments for SFY2019. Based on this review, AZDEQ continues to implement an effective drinking water program.

| EPA Strategic Performance Measure: 25% reduction in the number of CWSs with health-based (HB) violations by the end of 2022 | FY17Q3 (Baseline) | FY1 8Q3 | FY1 8Q4 | FY19 Q1 | FY19 Q2 | 2022 Goal |
|--|--------------------------|----------------|----------------|----------------|----------------|------------------|
| Number of CWSs with HB violations | 73 | 62 | 67 | 62 | 64 | 55 |
| Percentage change from baseline | 0 | -15% | -8% | -15% | -12% | -25% |

The State implements the PWSS program using the EPA PWSS grant and the required 25% state match.

| | |
|-------------------------------------|-------------------|
| SFY19 EPA PWSS Grant Award (in PPG) | \$1,413,451 |
| SFY19 State Share | <u>\$ 471,084</u> |
| SFY19 Total Funds Available | \$1,884,335 |

In addition, AZDEQ requested and received, funding for use of DWSRF set-asides from the Arizona Water Infrastructure Finance Agency. AZDEQ used the full amount of the 2% Small System Technical Assistance Set-aside; the 10% State Program Management Set-aside; and the 15% Local Assistance Set-aside (for Wellhead Protection, and Capacity Development).

| | |
|--|--------------------|
| SFY2019 2% Small system Set Aside | \$ 297,580 |
| SFY2019 10% PWSS Program Set Aside | \$1,487,900 |
| SFY2019 15% Local Assistance Set Aside | <u>\$1,866,680</u> |
| Total Set Aside Funds Available | \$3,652,160 |

The Arizona PWSS program also implements various fee-based programs (design review, Monitoring Assistance Program, operator certification) which supplements program funding. From all the available funding sources, AZDEQ has 36 FTEs to implement the \$5.5 million PWSS program.

Status of Rule Adoption:

AZDEQ has regulatory authority and interim primacy for all federal SDWA rules promulgated to date. AZDEQ submitted final primacy packages on the State's administrative penalty authority, definition of PWS, Consumer Confidence Report (CCR) Rule, and Public Notice (PN) Rule.

EPA plans to complete our review of these primacy packages and publish a proposed approval in the Federal Register on the administrative penalty authority, definition of PWS, CCR, and PN rules in the beginning of SFY20.

The table below shows the 11 primacy packages AZDEQ submitted to EPA in SFY19. EPA expects to provide comments to AZDEQ on the following previously submitted primacy packages: RTCR, Stage 1 and Stage 2 DBP Rules, LCR, Arsenic Rule, Radionuclides Rule, and GWR.

| Rule | Date submitted |
|--|--|
| Consumer Confidence Report (CCR) Rule | Draft: February 13, 2019 Final: July 26, 2019 |
| Public Notice (PN) Rule | |
| Administrative Penalty Authority | |
| PWS definition | |
| Revised Total Coliform Rule (RTCR) | April 3, 2019 |
| Stage 1 Disinfection Byproducts (DBP) Rules | |
| Stage 2 DBP Rules | |
| Lead and Copper Rule (LCR) minor revisions (MR) and short-term revisions (STR) | May 1, 2019 |
| Arsenic Rule | June 21, 2019 |
| Radionuclides Rule | |
| Groundwater Rule (GWR) | |

Sanitary Surveys:

The Compliance and Inspections unit conducts sanitary surveys for CWS every three years unless a system is determined to be an outstanding performer or a non-community water system, for which sanitary surveys are performed every five years. AZDEQ's sanitary surveys includes the evaluation of all required eight elements and does not include optional elements like financial evaluation. Maricopa and Pima counties perform sanitary surveys for systems under their delegation through an agreement with AZDEQ.

AZDEQ conducted 364 sanitary surveys to include 89% of CWSs and 74% of non-community water systems in SFY19. AZDEQ has historically met its sanitary survey completion commitments. Recent changes in national reports make it difficult to measure percentages for the most recently completed three- or five-year reporting periods.

DWSRF Program Integration: Capacity Development and Small System Support:

The Capacity Development program has increased their capability to address the needs of PWSs by adding staff to the technical assistance (TA) and operator certification programs. AZDEQ also works with WIFA to provide financial assistance to the PWSs with the most need. In SFY18, AZDEQ added engineering design assistance to the type of TA available to PWSs. Nearly half of PWSs provided third-party TA, use engineering design assistance to overcome a barrier to

compliance. Arizona continues to use their Master Priority List (MPL) to target systems for assistance. New to SFY19, PWSs with O&M violations are now positioned on the MPL so they can receive TA along with systems with persistent MCL issues to maintain compliance with state drinking water requirements.

Program/Rule Implementation:

In SFY18, EPA began working with AZDEQ to address the 16 recommendations from the PWSS Program/File Review conducted by EPA in October 2016. Most findings were addressed through changes to AZDEQ's rule implementation processes. AZDEQ has addressed the EPA findings related to Public Notice rule implementation. AZDEQ developed a process to track Public Notice violations and now reports violations to the federal database of record.

AZDEQ recently completed an evaluation of the Maricopa county delegated program and will work to address any issues identified with their delegated county program.

Data Management and Reliability:

AZDEQ submits to EPA the highest quality data of all the Region 9 primacy agencies. When an issue with certain data quality error categories in its submittals to EPA appeared in late 2018 and early 2019, AZDEQ worked to address the issue and fix these and all other issues. The latest data submittals from AZDEQ had no data quality error in all categories. AZDEQ's national data quality indicator shows 99.77% of records evaluated had no issues. Only a few issues with timeliness of violation reporting and even fewer issues with missing or invalid facility locational data are detracting from a perfect score on the DQM. EPA recently emphasized an ongoing issue with tracking return to compliance for certain violations that is common among primacy agencies nationwide, and correspondence with AZDEQ indicates they are already beginning to address this issue. AZDEQ's SDWIS data management is exemplary and outstanding. AZDEQ has implemented CMDP and is actively using it to manage analytical results from major labs comprising the majority of results received. AZDEQ plans to continue rolling out CMDP to smaller labs as they express interest. Primacy agencies are now awaiting the results of EPA's re-evaluation of the SDWIS-Prime development process and next steps before determining how to proceed with SDWIS transition.

Drinking Water Operator Certification Program:

The AZDEQ 2019 Operator Certification program initial annual submittal did not show documentation and evaluation of ongoing program implementation with respect to the Federal Guidelines. The report did not provide enough detail and documentation on a number of baseline standards necessary for EPA to evaluate and make a determination that AZDEQ is fully implementing an operator certification program that meets all Nine Baseline Standards. Documentation and evaluation of the program must include evaluation of each of the Nine Baseline Standards, as well as each of the elements included in all baseline standards, the anti-backsliding provision in the Final Guidelines, and the public health objectives of the program. Our concerns with the annual submittal was such that we needed additional information in the report before September 30, 2019. Should this requirement not be met, the Drinking Water Revolving Loan Fund for Arizona will have 20% of its FY20 capitalization grant allotment withheld. On September 27, 2019, AZDEQ addressed our concerns in a revised annual submittal.

SFY20 Priorities

- AZDEQ should submit draft and final primacy packages for the Phase II/V chemical contaminants rule, Variances and Exemptions authority and the suite of Surface Water Treatment Rules.
- EPA suggests AZDEQ perform an evaluation of the Pima County delegated program.
- Chemical Waiver Program and Phase II/V Rules: AZDEQ submitted a package of their updated Phase II/V Chemical Contaminant Waiver program. EPA previously approved AZDEQ's Waiver program on January 28, 1998. EPA approved Arizona's adoption by reference of the federal National Primary Drinking Water Regulations in 1991 but has not compared more recent federal requirements, to include Arizona's adoption of the Phase II/V Chemical Contaminant Rules. EPA plans to complete our review of AZDEQ's Chemical Waiver program in SFY20.
- EPA would like AZDEQ to develop a process to report to EPA the Treatment Technique violations incurred when significant deficiencies are not addressed by a PWS. AZDEQ identifies and adequately follows up on findings of significant deficiencies from a sanitary survey but only reports into a state database that is not accessible to EPA.
- EPA suggests AZDEQ make an update to their Small Water System Compliance Assistance Plan. EPA would like AZDEQ to update the living document to include new compliance assistance tools in addressing EPA/State drinking water goals.
- EPA suggests AZDEQ perform an evaluation of the Pima County delegated program.
- For FY 20 and subsequent submittals, operator certification program annual reports need to meet the criteria found in the Operator Certification Program Desk Guide and Checklist. This suggested reporting format identifies what type and amount of detail needed for inclusion in the report. The annual report should be submitted to EPA by August 31st to provide EPA sufficient time for review prior to EPA making a determination on the SRF withholding.

Lab Certification – Through the analytical capabilities of the contracted state laboratories certified to analyze drinking water, the Drinking Water Program has full capacity for analyzing all drinking water contaminants. AZDEQ awarded 5 laboratories a Statewide Environmental Laboratory Services contract in SFY18. The Arizona Department of Health Services (ADHS) certifies 87 drinking water laboratories, 53 in Arizona and 34 out of state. ADHS renews drinking water laboratory certifications every other year, which is more frequent than the triennial requirement. EPA follows the Manual for the Certification of Laboratories Analyzing Drinking Water Samples, 5th Edition to evaluate ADHS's laboratory certification program. EPA conducted an on-site evaluation of ADHS's State Laboratory on August 21, 2018. EPA issued the audit report on September 7, 2018, to document that ADHS is meeting or exceeding all federal requirements.

Source Water Protection (Integrated PPG: Value Stream 4S03)

The Source Water Protection (SWP) Program aims to protect both surface and groundwater sources of public drinking water from contamination in order to protect human health. From working with school CWSs to assessing per- and polyfluoroalkyl substances (PFAS) threats, the Program continues to not only meet workplan commitments but more importantly be a leader in

educating the public and reducing priority contamination threats to public water supplies. The Program utilizes 15% Set-Aside funds from the DWSRF.

The Program continues to proactively conduct quality source water protection efforts that aim to prevent contamination of public water supplies and protect human health.

Program performance

- Highlights:
 - Began working with NRCS to target new Farm Bill funds to SWP priority areas;
 - Assisted six CWSs with maximum contaminant level (MCL) violations to assess wells, hydrogeology, and adjacent land uses to determine the cause of the violations; and
 - Updated monitoring waiver guidance and reviewed 125 waiver applications.
 - Workplan deliverables were completed according to schedule and were of good quality.
- Challenges: None

Fiscal Analysis

ULOs: There are no concerns regarding unliquidated obligations.

SFY2020 Priorities

The Program has two new priorities for SFY20: (1) Continue to coordinate with NRCS to utilize Farm Bill funds to prevent contamination of public water sources by agricultural activities; and (2) Work with the six CWSs mentioned above to develop SWP plans to address the causes of their MCL exceedances. While these new priorities do not require additional resources per se, the Program's help in targeting Farm Bill funds should provide a significant amount of new resources to protecting sources of public drinking water in Arizona.

Drinking Water Enforcement (Integrated PPG: Value Stream 4S04)

EPA R9's Enforcement and Compliance Assurance Division (ECAD) oversees Arizona's drinking water enforcement program to ensure that drinking water systems in violation of the SDWA are appropriately addressed. The EPA FY 2019 OECA Annual Commitment System (ACS) commitment for drinking water requires that states address the number of priority systems equal to the number of its PWSs that have a score of 11 or higher on the July 2018 Enforcement Targeting Tool (ETT) report by issuing a formal enforcement action or verifying return to compliance. Systems with an ETT score of 11 or higher, with unaddressed violations for more than six months, are potential candidates for escalated enforcement actions. AZDEQ's success at addressing violations is tracked by means of the quarterly ETT reports.

While AZDEQ continues to have numerous systems with arsenic MCL violations and systems that have remained on the ETT list for long periods of time, AZDEQ has strived to meet commitments to the best of their ability. Based on quarterly discussions with EPA, AZDEQ has provided detailed explanations for systems with unaddressed violations that satisfactorily explain why unaddressed systems remain in a state of noncompliance.

Program Performance

At the beginning of July 2018, there were 28 facilities on the ETT list with a score of 11 or higher. As of July 2019, 30 systems had a score of 11 or higher. AZDEQ addressed 20 of the original 28 systems on the July 2018 list by July 2019 through issuance of a formal enforcement action and/or the system returned to compliance. AZDEQ has implemented a state-operated ETT system by the name of “ETT Live.” Per AZDEQ, “ETT-Live” provides more accurate and real-time updates to the ETT scores. This allows AZDEQ to provide more accurate ETT scores and updates during quarterly discussions with EPA.

EPA has a Long-Term Performance Goal to reduce the average time from violation identification to correction. The table below demonstrates the number of violations that were issued each quarter as well as the number of violations that returned to compliance.

| | July 2018 | October 2018 | January 2019 | April 2019 |
|--------------------------------------|-----------|--------------|--------------|------------|
| # PWSs in Priority Status (ETT ≥ 11) | 28 | 20 | 25 | 48 |
| # Violations Issued | 327 | 342 | 171 | N/A |
| # Violations RTCed | 587 | 465 | 864 | 358 |
| AOs Issued (Federal and State) | 0 | 9 | 0 | 0 |

AZDEQ issued 210 informal enforcement actions (Notices of Opportunity to Correct [NOCs] and/or Notices of Violations [NOVs]) to water systems to address non-compliance issues. AZDEQ closed 187 NOCs/NOVs in SFY 2019. AZDEQ issued 9 administrative orders. 11 administrative orders were closed when the water systems returned to compliance in SFY 2019. AZDEQ also investigated 87 complaints related to drinking water.

AZDEQ is currently tracking 18 water systems with arsenic MCL violations. AZDEQ returned to compliance 8 systems since July 2018. In July 2018, AZDEQ originally reported 18 systems with arsenic MCL violations. Since this time, 8 new systems were added to the original list.

SFY20 Priorities

The priorities for drinking water enforcement are to continue addressing systems in violation of the arsenic MCL and systems with ETT scores of 11 or higher. EPA’s Office of Enforcement and Compliance Assurance is currently finalizing a new National Compliance Initiative (NCI) for drinking water that will take effect on October 1, 2019. The NCI will be implemented for at least four years (FY20 - FY23) and may be extended beyond FY23. It will include four top priorities: 1) Reducing by 25% the number of health-based violations at community water systems by 2022 (also EPA Office of Water strategic performance measure); 2) Evaluating 50% of all community water systems which serve greater than 10,000 people; 3) Capacity building and increasing EPA’s field presence; and 4) Addressing monitoring and reporting violations at priority systems. EPA R9 ECAD will initiate discussions with the primacy agencies early in FY2020 to develop a plan to implement the NCI.

Ground Water Programs (Integrated PPG Workplan: 4S01 Value Stream)

UIC Primacy Development

In SFY19, AZDEQ focused on stakeholder engagement and drafting UIC regulations. To help guide and inform AZDEQ on the UIC Primacy Development path, AZDEQ held several stakeholder meetings, including Tribal engagement, on its UIC Primacy development actions and procedures. AZDEQ submitted draft UIC regulations to EPA for review in August 2019 and EPA's evaluation should be done in late September 2019. In SFY20, AZDEQ and EPA will continue to discuss other required components of the UIC Primacy Package and identify a schedule for EPA review and input. AZDEQ anticipates submitting a complete UIC Primacy application to EPA in late Summer 2020.

No federal funds are allocated for AZ UIC Primacy Development.

APP/Federal UIC Permits

AZDEQ's Aquifer Protection Permit (APP) program shares information with EPA's UIC program on UIC regulated sites that are also subject to state APP permitting. Sharing of information and regular updates helps ensure coordination of federal/state oversight and efficiency in AZDEQ's and EPA's permitting process.

During our EOY discussion, AZDEQ and EPA shared information on review of pre-operational activities of the Excelsior Gunnison Copper Project and discussed the status of the Florence Copper commercial scale permit application. Excelsior has recently completed construction and continues to submit pre-operational reports for EPA and AZDEQ review and approval prior to authorization of injection for in-situ copper recovery. In addition, we reviewed activities occurring under the active permits for Morton Salt and the Florence Copper Production Test Facility (PTF). AZDEQ staff have regularly witnessed well testing at injection sites jointly permitted by both agencies. EPA greatly appreciates this assistance and support from the state.

In addition to coordinating on the UIC and APP permitted projects, AZDEQ has provided annual updates to EPA of its drywell (Class V injection wells) database for EPA's UIC database. A person who owns an existing or proposed drywell in Arizona must register the drywell with AZDEQ. AZDEQ's APP Program evaluates these wells to determine the need for a general APP to protect Arizona aquifers that serve as drinking water sources. EPA also requires owners/operators of injection wells (e.g., drywells or any other Class V injection well), which are "authorized by rule" pursuant to the Class V UIC requirements, to submit inventory information for the federal database. The drywell update from AZDEQ ensures that our UIC database has up-to-date totals for these wells which represent the largest number of injection wells in Arizona.

Border

No EOY Report provided.